

Federal Court



Cour fédérale

Date: 20250113

Docket: IMM-16495-23

Citation: 2025 FC 66

Toronto, Ontario, January 13, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

ERIKA OLASCUAGA RAMOS

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered orally from the bench on January 9, 2025.

Edited for syntax, grammar, and citations.)

[1] The Applicant is a Colombian citizen who was excluded from an assessment of her refugee protection claim based on Article 1E of the *Convention Relating to the Status of Refugees*, 28 July 1951, 189 UNTS 137 [Convention]. Article 1E excludes a claimant who is “recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.”

[2] The Refugee Protection Division (RPD) excluded the Applicant from the Convention's protection based on its impression that she had access to permanent residence in Ecuador but failed to acquire it.

[3] However, it is not reasonable to interpret Article 1E in a manner that excludes claimants from an assessment of their refugee protection claim based on their lack of effort to obtain potential status in a third country (*Freeman v Canada (Citizenship and Immigration)*, 2024 FC 1839 at para 40). The RPD did exactly that, and the decision which followed is therefore unreasonable.

JUDGMENT in IMM-16495-23

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is granted, the decision of the Refugee Protection Division of the Immigration and Refugee Board is set aside, and the matter is returned to a differently constituted panel of the Refugee Protection Division for redetermination.
2. There is no question for certification.

“Michael Battista”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-16495-23

STYLE OF CAUSE: ERIKA OLASCUAGA RAMOS v THE
MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 9, 2025

JUDGMENT AND REASONS: BATTISTA J.

DATED: JANUARY 13, 2025

APPEARANCES:

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Eli Lo Re	FOR THE RESPONDENT

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